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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/964,312

09/26/2001

Cam Reed JR.

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05/05/2004

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EXAMINER

COLE, LAURA C

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/964,312

Applicant(s)

REED, CAM

Examiner

Laura C Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 19 March 2004 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Chisholm, USPN 4,640,540.

Chisholm discloses a gutter cleaning tool that comprises a scooping head (Figures 1-5 (10)) having a blade end (leftmost side of Figure 2) and a head attachment end (Figure 2 (18)) wherein the blade end is curved (Figures 1-4), a handle having a gripping end (Figures 1 and 2 (20)), and zero attachment poles. Figure 1 (20) is considered a "pole body" that is affixed to the scooping head. Further, the scooping head comprises a blade having a concave face and a convex back (see Figures), the blade end having a longitudinal axis (see Figures), a head attachment end having a

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longitudinal axis (20, at joint where "20" is indicated in Figure 5), the axis being substantially parallel to the blade end longitudinal axis (see Figure 2), the handle attachment end and the blade end connected in a manner (see Figures). The device of Chisholm is integrally formed (see Figures).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 6, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith, USPN 4,848,818.

Smith discloses a gutter cleaning tool that comprises a scooping head having a blade end (Figure 3, leftmost portion of scoop (10)) and a head attachment end (Figure 3 (12)) wherein the blade end is curved (Figure 3), a handle having a gripping end and a handle attachment end (Figures 1-2 and 5 (16) wherein the attachment end is the threads shown in Figure 5), and an attachment pole joint (Figure 2 (14A and 14B) comprise the attachment ends, also see Figures 3-5). Further, the scooping head comprises a blade having a concave face and a convex back (as shown in Figure 3), the blade end having a longitudinal axis (see all Figures), a head attachment end having a longitudinal axis (14A), the axis being substantially parallel to the blade end longitudinal axis (see Figure 2, the two positions marked in dash lines wherein Figure 2 resembles "the range of selectable positions of the tool around the multi-positional joint

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with additional positions...", Column 3 Lines 17-19), the handle attachment end and the blade end connected in a manner (see Figures). Again, Smith teaches a range of desirable positions for cleaning the gutter based on a non-integral pivoting joint that includes the head attachment (14A).

It would have been obvious for one of ordinary skill in the art to modify the joint of Smith to be integral with the scooping head and blade as it may be desirable for using the gutter cleaning tool singularly in one position. Further, it would have been obvious for one having ordinary skill in the art at the time the invention was made for the blade end and head attachment end to be integrally formed, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

4. Claims 2, 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, USPN 4,848,818 in view of Malless, Jr., USPN 4,447,927.

Smith discloses all elements above, however does not provide cleaning bristles positioned on the blade end.

Malless, Jr. discloses a gutter cleaning apparatus that comprises a gutter cleaning apparatus including bristles positioned on the blade end (24) and (26) to aid in removing debris from gutters (Column 1 Lines 48-63). Further, the portion (48) which is considered as a head attachment end is not parallel to the handle attachment end (50; Column 3 Lines 24-26).

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It would have been obvious for one of ordinary skill in the art to modify the device of Smith by placing cleaning bristles, as Malless, Jr. teaches, on the blade end as an additional and effective means for cleaning debris from a gutter.

5. Claims 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, USPN 4,848,818 in view of Beers, Jr. et al., USPN 6,393,646.

Smith discloses all elements above, however does not disclose a rubber grip on a gripping end.

Beers, Jr. et al. disclose a golf green brush that has a handle (Figures 1-2 (20)) with a rubber grip portion (Figures 1-2 (40); Column 2 Lines 7-16).

It would have been obvious for one of ordinary skill in the art to modify the gripping portion of the handle of Smith by adding a rubber grip as Beers, Jr. et al. teach so that the user has a comfortable grip when manually cleaning a surface.

6. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, USPN 4,848,818 in view of Malless, Jr., USPN 4,447,927.

Smith and Malless, Jr. disclose all elements above, however Smith does not provide specific materials for the scooping head or attachment pole.

Malless, Jr. discloses a gutter cleaning apparatus that comprises a scooping head having a blade end and a head attachment end (Figure 1 (12); Column 2 Lines 28-30) and made of plastic (Column 3 Lines 37-40), a handle (Figure 1 (50)) having a gripping end (outer circumference may be gripped) and a handle attachment end (lowermost portion of (50)), and attachment poles made of plastic (Figure 1 and Figure 4; Column 3 Lines 44-46).

It would have been obvious for one of ordinary skill in the art to modify the gutter sweep that Smith discloses for one with parts made of plastic as Malless, Jr. teaches, so that the cleaner is durable and inexpensive to manufacture.

7. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, USPN 4,848,818.

Smith discloses all elements above, however does not provide specific materials for the scooping head or attachment pole.

It would have been obvious for one having ordinary skill in the art at the time the invention was made to have the materials be from the group wood, plastic, metal, composite material, or a combination of those since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious engineering choice. In re Leshin, 125 USPQ 416.

8. Claims 1, 2, and 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malless, Jr., USPN 4,447,927 in view of Smith, USPN 4,848,818.

Malless, Jr. discloses all elements above including a gutter cleaning apparatus that comprises a scooping head having a blade end and a head attachment end (Figure 1 (12); Column 2 Lines 28-30) and made of plastic (Column 3 Lines 37-40), wherein said blade end is curved in a manner allowing the blade end to fit up and over a gutter (the blade end is the left most end of the scoop shown in Figure 1, wherein side walls 18' curve), a handle (Figure 1 (50)) having a gripping end (outer circumference may be gripped) and a handle attachment end (lowermost portion of (50)), attachment poles

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made of plastic (Figure 1 and Figure 4; Column 3 Lines 44-46), a plurality of cleaning bristles (Figure 1 (24), (26), and (38)). Further, Figure 5 displays an attachment pole (32) having a first pole attachment end (34) and a second pole attachment end (34'), the first pole attachment end being detachably affixed to the head attachment end (30) of the scooping head. Even further, Figure 5 displays a handle (pole beneath (32)) having a gripping end and a handle attachment end (upper portion of pole beneath (32)) detachably affixed to the second pole attachment end (34') (see Column 2 Line 60 to Column 3 Line 5). Further the blade end has a concave face and convex back (see Figures), the blade end has a substantially longitudinal axis (the axis at the portion (48)), that axis being *substantially* parallel to a handle axis (50; however the handle (50) and the blade end axis (48) are about 5 degrees off parallel, Column 3 Lines 24-26). The blade end and head attachment are integrally formed (see Figures). Malless, Jr. does not disclose a blade end axis being parallel to the handle longitudinal axis.

Smith discloses all elements above, including the teaching that it is desirable to have an adjustable handle (wherein one position the blade end axis is parallel to the handle longitudinal axis, see Figures) to provide a range of positions depending on the user's preferences (Column 1 Lines 21-30, 62-67).

It would have been obvious for one of ordinary skill in the art to modify the attachment portion of Malless, Jr. for the one that Smith teaches in order to provide an arrangement wherein the user can set the position so that the blade end axis is parallel to the handle longitudinal axis to use as desired.

Conclusion

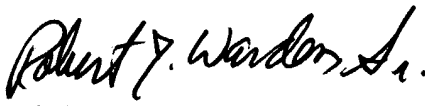
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C Cole whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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20 April 2004


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